

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Curt Hébert, Jr., Chairman;
William L. Massey, and Linda Breathitt.

El Paso Natural Gas Company

Docket Nos. CP00-422-000 and
CP00-422-001

ORDER ISSUING CERTIFICATE

(Issued May 7, 2001)

On July 31, 2000, El Paso Natural Gas Company (El Paso) filed an application for a certificate of public convenience and necessity, under section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations. El Paso seeks authorization to acquire, clean, and convert to natural gas use approximately 785 miles of an existing 1,088-mile crude oil transmission pipeline, to operate the converted pipeline in interstate commerce as part of El Paso's existing interstate transmission system, and to construct and operate related facilities at a total, estimated project cost of \$153,145,335.¹ The facilities, called the Line No. 2000 Project, would be extend from McCamey, Texas, to Ehrenberg, Arizona and would add approximately 230 MMcf per day (MMcf/d) of capacity to El Paso's interstate transmission system. We will grant the requested authorizations, subject to conditions, as discussed below.

I. Background

El Paso is a natural gas company that operates an interstate pipeline system for the transportation of natural gas from areas in the southwestern United States through the states of Texas, New Mexico, Colorado, and Arizona, to two points of termination at the boundary between the states of California and Arizona, near Ehrenberg and Topock, Arizona. El Paso's interstate system also makes deliveries to numerous other on-system delivery points and to off-system eastern markets. Segments of El Paso's interstate system, consisting of South System and North System mainlines, have been in service since the mid-1940's and early 1950's.

¹In the July 31 application, El Paso also requested NGA section 7(b) permission and approval to abandon in place six existing mainline compression facilities. However, in an amendment filed on March 15, 2001, El Paso requests that the Commission delete that portion of the original application proposing the abandonment of the compressor facilities.

El Paso states that based on the age, inefficiency, and operating costs of the South System, it sought in its original application to replace old horsepower on its South System with the converted oil pipeline. El Paso planned to accomplish this by abandoning in place six mainline compressor facilities,² providing a total of 119,750 horsepower. El Paso states that under this proposal, the Line No. 2000 Project would not have increased the existing transportation capacity of El Paso's interstate transmission system, and the abandonment of the compressor facilities would have taken effect once the Line No. 2000 Project was placed in service on a permanent basis.

El Paso states that, since the time it prepared its original application, the dynamics of the natural gas market in California have changed dramatically. It asserts that California has experienced greatly increased prices for both gas and electricity, power alerts, and occasional, rolling blackouts. El Paso points out that electric power supplied by surrounding states has been inadequate to resolve the continuing energy crisis and demand, which is expected to peak during summer months. It states that much of the power generated within California and the surrounding states depends on the availability of natural gas as fuel for the generation facilities, and that the market indicates a demand for additional volumes of gas to serve growing electric generation needs in the Southwest.

II. Proposal

El Paso proposes to acquire and convert to natural gas use about 785 miles of a 1,088-mile, 30-inch, crude oil pipeline purchased by its wholly-owned subsidiary, EPNG Pipeline Company from Plains All American Pipeline L.P. and All American Pipeline, L.P.³ El Paso would also construct certain connecting pipelines and extensions to permit the line to be contiguous and integrated into El Paso's system, with an increased capacity of approximately 230 MMcf/d.

El Paso states that it will accept the full risk for the Line 2000 Project by charging its currently effective Part 284 firm rates. It states that it intends to place the project in service as a loop to the existing low pressure South System pipelines and to continue to operate the existing South System compression without additional contracts to cover its operating and investment costs. As part of the proposed integration of Line No. 2000 into El Paso's South System, El Paso would internally clean the

²The compressor facilities that were proposed for abandonment are Deming in Luna County, New Mexico; San Simon and Benson in Cochise County, Arizona; Tucson in Pima County, Arizona; and Gila in Maricopa County, Arizona; and the "A" and "B" plants at the El Paso Compressor Station in El Paso County, Texas.

³The entire 1,088-mile pipeline extends from a point near Bakersfield, California to McCamey, Texas. El Paso intends to convert the segment that extends from near Ehrenberg, Arizona to McCamey, Texas. The California segment, consisting of approximately 303 miles, is being evaluated for future use as part of El Paso's interstate transmission system.

pipeline, replace certain segments of Line 2000, construct tie-ins and crossovers to the South System, replace and move certain existing valves, and install minor appurtenant facilities. Thereafter, El Paso would hydrostatically test approximately 506 miles of various segments of Line No. 2000.

A. Expansion Facilities

El Paso proposes to:

- acquire and clean approximately 785 miles of an existing crude oil transmission pipeline and convert it to a natural gas transmission pipeline;
- construct a total of approximately 0.81 mile of new pipeline segments to bypass ten oil pump station sites;
- construct new pipeline at two tie-in and four crossover locations;
- construct a total of 2.78 miles of 30-inch-diameter pipeline to tie in Line No. 2000 to seven existing compressor stations (Guadalupe, Cornudas, Afton, Florida, Lordsburg, Casa Grande, and Wenden) on its South System and remove a total of approximately 0.68 mile of Line No. 2000 at these tie-ins;
- replace four segments of Line No. 2000, totaling 8.16 miles, with 30-inch-diameter pipeline to meet U.S. Department of Transportation requirements;
- install 38 new valves;
- remove 29 plug vent valves;
- remove seven check valve segments, fourteen gate valve segments, and a tee and gate valve and replace them with 30-inch-diameter pipeline; and
- install pigging facilities and flow measurement equipment (under section 2.55 of the Commission's regulations).

B. Proposed Service

El Paso states that the proposed integration of the Line No. 2000 Project into El Paso's existing South System would allow El Paso to almost immediately add up to 230 MMcf/d of new transport capacity to its transmission system. El Paso advises that once the Line No. 2000 Project is placed into service, the incremental capacity will be included in the daily scheduling of gas on the

system, will be used as system flexibility capacity, and will serve to reduce daily allocations of capacity on the system in times of maintenance, outages, and force majeure events.

El Paso further states that it would not require specific new firm transportation service agreements for such capacity but instead would use it as a cushion to meet the demands for gas in the California market and in the markets east of California where natural gas is used to generate power that is exported to California.⁴ El Paso also states that the additional capacity would offset the reduction in capacity that could otherwise be experienced as a result of the extraordinary maintenance activities planned for the coming summer months. To help ameliorate the California energy crisis this year, El Paso proposes to place the Line No. 2000 Project expansion of its system into service by August 31, 2001.

⁴El Paso recently held two open seasons, one for 1.22 Bcf/d of capacity under an existing contract with El Paso Merchant Energy Company, and a second to determine interest in additional expansions of El Paso's system. In the first open season, El Paso received bids for a total of 14.4 Bcf/d. El Paso has not yet furnished the results of the second open season. However, it is clear that the level of demand for additional capacity on El Paso's system is greater than the available capacity.

III. Procedural Matters

A. Notice, Interventions, Protests, and Comments

Notices of El Paso's original application in Docket No. CP00-422-000 and amended application in Docket No. CP00-422-001 were published in the Federal Register on August 15, 2000 (65 Fed. Reg. 49,794) and on March 22, 2001 (66 Fed. Reg. 16,047), respectively. Twenty-seven timely, unopposed motions to intervene were filed in Docket No. CP00-422-000 and twelve were filed in Docket No. CP00-422-001.⁵ Four parties filed motions to intervene out-of-time.⁶ All parties that filed motions to intervene are listed in Appendix A to this order.

Several parties protested and/or made comments raising issues related to El Paso's initial proposal to abandon the South System compression facilities. To the extent that those issues are no longer relevant and have been rendered moot by El Paso's amended application, they will not be addressed in this order. Accordingly, only the remaining issues relevant to the initial application are discussed below.

Numerous parties filed motions in support of El Paso's amended proposal. Generally, they state that the additional capacity will not only help to alleviate the shortage of natural gas-fired electricity in California but also assist El Paso in meeting its contractual obligations to serve the natural gas needs of its full requirements customers. They also state that the incremental capacity will serve to reduce daily allocations of capacity and provide greater flexibility for shippers on the South System. Additionally, they state that the incremental capacity would offset reductions in capacity that could result from the testing that is to be conducted by El Paso during the remainder of the year, as ordered by the Department of Transportation (DOT) Office of Pipeline Safety.

⁵Timely, unopposed motions to intervene are granted by operation of Rule 214 of the Commission's Rules of Practice and Procedure. 18 C.F.R. § 385.214 (2001).

⁶Pursuant to Rule 214 of the Commission's regulations, the Commission finds that granting the motions to intervene out-of-time will not delay, disrupt, or otherwise prejudice this proceeding or place an additional burden on existing parties. Therefore, for good cause shown, the late-filed motions to intervene in this proceeding are granted. 18 C.F.R. § 385.214(d)(2001).

B. Requests for Evidentiary/Comparative Hearing, a Technical Conference, and a Conference on California Expansion Issues

In its protest to El Paso's original filing, Indicated Shippers argue that the proposal to replace existing compression with the Line 2000 Project could negatively impact existing shippers. Indicated Shippers state that El Paso has not explained the impact on rates, what portion of the total line's costs will be included, whether existing customers will subsidize the project, or why rolled-in rates would be appropriate. Indicated Shippers request a technical conference, or in the alternative, a hearing, to explore these issues. Sempra Companies (Sempra) makes similar arguments and asks for a technical conference.

An evidentiary trial-like hearing is necessary only where material issues of fact are in dispute that cannot be resolved on the basis of the written record.⁷ Here, there are no material issues of fact in dispute that would necessitate an evidentiary hearing. In addition, El Paso has modified its proposal from a replacement project to an expansion project, which addresses Indicated Shippers' concerns, among which are the disposition of the compressor facilities, their market value, and back-up service. Concerns regarding the overall cost, as well as what portion of the total line's costs should be included in the project are issues to be addressed when El Paso files in next rate case. Otherwise, the amendment has rendered the protest and concerns raised by Indicated Shippers and Sempra moot. Therefore, the requests for a hearing and technical conference are denied.

Southern California Gas Company (SoCalGas) suggests that the Commission convene a conference to address California pipeline expansion issues.⁸ In support of its request, SoCalGas cites the Commission's March 14, 2001 order in which the Commission asked that pipelines engage in coordinated efforts with local distribution companies (LDCs), public utilities, and state officials to ensure that all entities that need gas receive the additional capacity on the interstate pipeline.⁹

El Paso does not disagree with the concerns raised by SoCalGas regarding the need for the California LDCs or others to build additional infrastructure downstream of any new capacity moving

⁷See, e.g., *Southern Union Gas Co. v. FERC*, 840 F.2d 964, 970 (D.C. Cir. 1988); *Cerro Wire & Cable Co. v. FERC*, 677 F.2d 124 (D.C. Cir. 1982); *Citizens for Allegany County, Inc. v. FPC*, 414 F.2d 1125, 1128 (D.C. Cir. 1969).

⁸SoCalGas proposes that the Commission hold a conference in the next 15 to 20 days, with initial comments to be filed five days after the conference, and reply comments five days after that.

⁹See Order Removing Obstacles to Increased Electric Generation and Natural Gas Supply in the Western United States and Requesting Comments on Further Actions To Increase Energy Supply and Decrease Energy Consumption, Docket No. EL01-47-000, 94 FERC ¶ 61,272 (2001).

gas to California.¹⁰ However, rather than delay this project while such concerns are resolved, El Paso states that the energy crisis in the western states must be addressed as soon as possible. Therefore, El Paso believes it should make this additional capacity available now in order to assure that all of the existing downstream takeaway capacity, both within and upstream of California, can be fully utilized.

Since El Paso's amended application is designed to address a number of operational issues, and provides additional firm service capacity for both California and east of California markets, El Paso does not believe that any constructive purpose would be served by conducting a technical conference or further delaying implementation of its proposal. El Paso contends that any delay in receiving approval to clean and convert Line 2000 to gas service only delays its effort to ameliorate the energy crisis facing the western United States.

The Commission finds no need for such a conference in this proceeding. El Paso's project is intended to address system flexibility issues and to reduce daily allocations of capacity on the system in times of maintenance, outages and force majeure events. While the project may serve to increase capacity into California, it will do so under existing contracts and will not degrade existing customers rights.

IV. Discussion

Since the proposed construction and operation of the Line 2000 Project involves facilities that will be used for the transportation of natural gas in interstate commerce, the proposal is subject to the Commission's jurisdiction and the requirements of subsections (c) and (e) of NGA section 7.

A. Application of the Certificate Policy Statement

The Commission's September 15, 1999 Policy Statement provides guidance as to how it will evaluate proposals for certifying new construction.¹¹ The Policy Statement established criteria for determining whether there is a need for a proposed project and whether the proposed project will serve the public interest. The Policy Statement explains that in deciding whether to authorize the construction of major new pipeline facilities, the Commission balances the public benefits against the potential adverse consequences. Our goal is to give appropriate consideration to the enhancement of competitive transportation alternatives, the possibility of overbuilding, subsidization by existing

¹⁰See Letter responding to comments of intervenors, filed by El Paso in Docket Nos. CP00-422-000 and CP00-422-001, on April 9, 2001.

¹¹Certification on New Interstate Natural Gas Pipeline Facilities (Policy Statement), 88 FERC ¶ 61,227 (1999), order clarifying statement of policy, 90 FERC ¶ 61,128, order further clarifying statement of policy, 92 FERC ¶ 61,094 (2000).

customers, the applicant's responsibility for unsubscribed capacity, and the avoidance of unnecessary exercise of eminent domain or other disruptions of the environment.

Under this policy, the threshold requirement for existing pipelines proposing new projects is that the pipeline must be prepared to support the project financially without relying on subsidization from existing customers. The next step is to determine whether the applicant has made efforts to eliminate or minimize any adverse effects the project might have on the applicants' existing customers, existing pipelines in the market and their captive customers, or landowners and communities affected by the route of the new pipeline. If residual adverse effects on these interest groups are identified, after efforts have been made to minimize them, the Commission will evaluate the project by balancing the evidence of public benefits to be achieved against the residual adverse effects. This is essentially an economic test. Only when a proposed project's benefits outweigh its adverse effects on economic interests will the Commission then proceed to complete the environmental analysis, in which other interests are considered.

As discussed below, the Commission finds that El Paso's proposal satisfies the "no-subsidy" requirement and that the benefits of the project outweigh any potential adverse impacts. Accordingly, the Commission finds that the construction and operation of El Paso's proposed expansion project is required by the public convenience and necessity.

1. Subsidization

The threshold requirement for certification under the Policy Statement is that the pipeline is prepared to support the project financially without relying on subsidization from existing customers. The Policy Statement notes that projects designed to improve service for existing customers, by replacing existing capacity, improving reliability, or providing flexibility, are for the benefit of the existing customers, and increasing the rates of existing customers to pay for such improvements would not be a subsidy.¹²

As stated, the proposed facilities will create an additional 230 MMcf/d of capacity to El Paso's South System. El Paso intends to use the added capacity to benefit its existing customers by using the 230 MMcf/d to reduce allocations of capacity for existing customers it is currently experiencing on its South System and allow more gas to flow into existing markets.¹³ The Line 2000 conversion will also improve the flexibility of the system by providing additional capacity during outages for testing and

¹²See Policy Statement, 88 FERC at 61,746, n.12. See also Northwest Pipeline Corp., 94 FERC ¶ 61,101, at 61,415 (2001).

¹³ As stated, El Paso recently held an open season for 1.22 Bcf/d of available capacity and received bids for a total of 14.4 Bcf/d.

maintenance.¹⁴ Finally, the additional capacity will help El Paso's existing customers provide gas for markets in California, as well as customers east of California, including those that generate electricity for use in California.

Indicated Shippers request that the Commission not predetermine the appropriate rate treatment for the costs of the proposed facilities in this proceeding. They state that there are many rate-related questions that are unclear, not only regarding costs and revenues, but also related to the depreciation schedule, and cross-subsidization of future projects. El Paso states that it is not asking for rolled-in rate treatment in this proceeding, but reserves the right, as do all other shippers, to argue for the appropriate rate treatment in its next rate case.

We find that El Paso's proposal satisfies the certificate policy statement's requirement that new construction should not be subsidized by existing shippers. We also find that the appropriate place for El Paso to develop its rate treatment for the costs of the Line 2000 facilities will be in El Paso's next NGA section 4 proceeding. However, we note that we will require El Paso to apply the Policy Statement's "no subsidy" requirement in its future rate case. As such, El Paso would have to demonstrate quantifiable benefits in order for existing customers to bear the costs of the project.

2. Effect of the Project on Certain Interest Groups

Once the Commission determines that a proposed project will not be subsidized by existing shippers and that there is a need for the project, under the certificate policy the Commission considers the effect the project will have on the pipeline's existing shippers, competing pipelines and their captive customers, and landowners and communities along the proposed route of the pipeline project.

Phelps Dodge Corporation and Apache Nitrogen Products, Inc. (jointly Phelps Dodge and Apache), firm transportation customers of El Paso, request that the Commission confirm that, in accordance with the terms of section 4 of the El Paso tariff, the additional system capacity resulting from the Line No. 2000 Project will be made available by El Paso to all firm shippers, without regard to whether the shipper intends to use the capacity to meet industrial or electric generation requirements for facilities located in either California or the East of California markets.

SoCalGas seeks clarification as to whether El Paso's proposal is intended to enhance system reliability and flexibility or to expand El Paso's system. SoCalGas's concern stems from the fact that, on the one hand, El Paso's proposal would allow El Paso to firm up the current deliveries to markets East of California and potentially to the California border during periods of system maintenance, and on

¹⁴As stated, the DOT Office of Pipeline Safety issued an order requiring El Paso test and make repairs to its South System.

the other hand, the proposal calls for an open season to gauge interest in potential future expansion.¹⁵ SoCalGas asserts that the proposed expansion must be designed to reach the intended markets, including electric generation and power plants, without degrading the rights of existing shippers.

Southwest Gas Corporation (Southwest) states that it does not oppose El Paso's expansion project, provided that El Paso dedicates the additional capacity to meet existing contractual service obligations. Southwest interprets El Paso's statement that it will not sell the incremental, expanded capacity under new service agreements to mean that El Paso will not amend existing service agreements to enlarge the current service rights of customers under those agreements.

Indicated Shippers support the proposed expansion so long as El Paso uses the additional capacity to remedy the ongoing capacity cuts that occur on the system on a daily basis. Indicated Shippers want the expansion to be first used to "path" El Paso's system, *i.e.*, to specify volumetric entitlements through identified segments of the pipeline to connect receipt and delivery points for each shipper. Indicated Shippers contend that El Paso does not explain the basis for concluding that the Line 2000 will add 230 MMcf/d of capacity and wonders whether more capacity might be available. Indicated Shippers argue that once the capacity allocation issues are resolved on El Paso's system, there is no basis for El Paso to retain capacity for "cushion" or "system flexibility." Indicated Shippers state that after 100 percent of firm contract demand and billing determinant capacity entitlements are satisfied, El Paso should be required to post and sell whatever capacity is available thereafter under open season procedures. According to Indicated Shippers, after firm customers' capacity rights are resolved, El Paso's need for "cushion" or "system flexibility" can be met with line pack and storage, and there would be no basis at that time for withholding available capacity from the market.

In response, El Paso states that because it offers "full requirements" (FR) firm service, under which shippers have no specified maximum contractual obligation, it cannot path its system. El Paso contends that the nature of FR service precludes pathing, since the volumetric rights of firm shippers are not clearly specified and, as a result, the distribution of El Paso's delivery obligation changes daily. El Paso states that it has taken the new capacity into account in the allocation plan compliance filing made on March 28, 2001, in Docket No. RP00-336-002. For the reasons explained in that filing, El Paso states that it cannot path its system, with or without this 230 MMcf/d, so long as it has contractual obligations with no specified maximum obligation.

¹⁵In its amended application, El Paso states that it decided to develop a three-part plan, which called for El Paso to re-contract certain existing capacity in an open-season in Part I of the plan, as a short-term response to the current energy crisis. In Part II, El Paso seeks the authorizations for the Line No. 2000 Project amendment, and in Part III, El Paso conducted another open season to determine if shippers desire a larger expansion of El Paso's system capacity.

Addressing the issue of who will use the capacity, El Paso contends that all shippers on the system will benefit from the expansion. During periods of pipeline testing and maintenance resulting from the Carlsbad rupture, the additional capacity afforded by the Line 2000 project will be used as "system flexibility capacity" and will serve to reduce allocations of capacity on the system. The same is true with regard to routine maintenance schedules.

El Paso states that the portion of the capacity that will not be needed to replace capacity reductions due to maintenance will be used by El Paso to effectuate deliveries under the existing firm and interruptible contracts on the system. El Paso reiterates that the expansion capacity will be scheduled in accordance with Section 4 of its FERC Gas Tariff, Third Revised Volume No. 1-A and the existing shipper's contracts. Line 2000 will increase the capacity to make deliveries at any point along the South System. In other words, Line 2000 capacity will be available to shippers serving either California (through the Ehrenberg delivery point) or east of California markets located along the Southern System. Except to the extent that system flexibility will increase as a result of the new capacity, El Paso states that deliveries on the North System will not be impacted.

The Commission concludes that El Paso's proposal will not have an adverse impact on the service of existing firm customers. In fact, the amended Line 2000 project will help enhance existing customers' firm service by adding 230 MMcf/d of new capacity to the existing mix for scheduling purposes for all firm shippers. Thus, in accordance with El Paso's tariff, the capacity will be made available to all firm shippers on a non-discriminatory basis, without regard to the purpose for which the shipper intends to use the capacity. We recognize that not all of the 230 MMcf/d will be available on a daily basis because El Paso has system maintenance and testing needs that will draw on this capacity. However, by providing more capacity to the system, the project will serve to benefit El Paso's existing customers. The Commission believes that the project is designed to improve the system flexibility and reliability, and help customers meet their existing requirements, not provide new service to new shippers.

Indicated Shippers request that El Paso post and sell whatever capacity is available after the system capacity allocation issues are resolved. We agree. To the extent any capacity remains after the allocation proceeding in Docket No. RP00-336-002, El Paso must make the capacity available in accordance with the terms and conditions of its tariff.

The Commission finds that the "pathing" of El Paso's system is not an issue to be decided in this proceeding. Regardless of whether or not the Line 2000 capacity is used to path El Paso's system, it is clear that the capacity will be used to benefit existing shippers' needs. The issue of "pathing" is one more appropriately considered in the context of El Paso's system-wide allocation proposal in Docket No. RP00-336-002.

While various customers express concern about the rate impact of the project, we find that the existing customers will receive substantial benefits from the project. As stated, the existing customers will not subsidize the project, because the project is designed to provide specific benefits to El Paso's existing customers.

Further, there is no evidence that other pipelines or their captive customers will be adversely affected by this project. The Line 2000 Project is intended to create capacity to serve the testing and maintenance requirements of the system, as well as serve to reduce the allocations of capacity for existing contractual requirements of existing customers on the system. It will not affect market shares of competing pipelines, because the capacity is not intended to serve new market requirements above customers' existing contractual requirements.

3. Impact on Landowners and the Environment

In the Policy Statement, the Commission indicated that one factor it would consider when certifying a project is the extent to which the applicant has obtained rights-of-way by negotiation, thereby minimizing the use of the eminent domain power granted in the NGA to recipients of certificates. El Paso states that it has perfected 98 percent of its right-of-way requirements and is negotiating for the remaining rights.

Construction of the proposed facilities would result in the temporary disturbance of about 320 acres of land, approximately 25 acres of which would be permanently disturbed. The majority of land use, approximately 70 percent, consists of previously disturbed right-of-way.

The Commission received three comment letters from concerned landowners. Mary U. Mora objects to the project because it will adversely affect her family's residential property and their home-based business. Kris Hollen contends that the existing oil pipeline is not in a legal easement on his property. Anthony W. White is concerned about the safety aspects of the pipeline.

Since the proposal is by and large a conversion project, virtually all of the facilities consist of existing pipeline located in an existing right-of-way. Thus, landowner impact will be minimal because it will be largely confined to the minor connecting and crossover facilities, which comprise a very small percentage of the overall Line 2000 Project. We find that El Paso's proposed Line 2000 Project would have minimal adverse effects on landowners.

Concerning safety issues, the DOT is solely responsible for establishing criteria and requirements for the safety of the natural gas pipeline facilities. DOT sets standards for the design, construction, inspection, and operation of natural gas pipelines in accordance with the Natural Gas Pipeline Safety Act of 1968. DOT's safety standards specify material selection and qualification, minimum design requirements, and protection from internal, external, and atmospheric corrosion. Any

applicant for a certificate from the Commission is required to verify that the proposed facilities would meet DOT safety standards.

4. Conclusion

The Commission finds that the benefits of El Paso's proposed Line No. 2000 Project sufficiently outweigh any of the minimal adverse impacts the project may cause. El Paso's proposed facilities will benefit its existing shippers by providing 230 MMcf/d of additional capacity into its South System, which will be used in the daily scheduling of gas and will serve to reduce daily allocations of capacity and provide greater flexibility for existing shippers. While no new contracts will be entered into for the additional capacity, the proposal will result in existing shippers having primary direct access to the available capacity to help meet their existing contractual needs. This capacity will also be used to offset reductions in capacity that could result from system maintenance, as well as testing of El Paso's system consistent with a DOT's Office of Pipeline Safety. Finally, the proposed facilities will not only aid existing shippers, but will help meet the demands for gas in the California market as well as in the markets east of California where natural gas is used to generate power that is exported to California. Accordingly, we find, consistent with the criteria discussed in the Policy Statement, that the public convenience and necessity requires that the Commission approve El Paso's proposed Line No. 2000 Project.

B. Engineering

In their comments, Indicated Shippers request clarification and answers on a number of operational questions. First, Indicated Shippers question why the total increase in incremental capacity due to the conversion of the 30-inch diameter Line 2000 is not far greater than the 230 MMcf/d proposed by EL Paso. Second, Indicated Shippers want clarification regarding which portions of El Paso's system, California Mainline System (South System) or San Juan Mainline System (North System), will benefit from the project. Indicated Shippers state that El Paso's flow diagrams shows 90 MMcf/d flowing north on the Havasu Crossover from the South System to the North System, which is in contrast to earlier flow diagrams that indicate about 300 MMcf/d is flowing south. With the delivery of 230 MMcf/d at Ehrenberg, Indicated Shippers state that it would appear that El Paso has designed this project to increase the incremental capacity to Ehrenberg by 620 MMcf/d (90+300+230). Third, Indicated Shippers want to know if the project will impact the gas flows on the Havasu Crossover. Lastly, they question whether this project will address the constraints out of the San Juan Basin or at the Cornudas Compressor Station.

In response, El Paso reiterates its position that the proposed facilities will only increase the capacity of El Paso's system by 230 MMcf/d. El Paso states that Indicated Shippers conclusions are incorrect. El Paso states that Indicated Shippers appear to have compared flow sheets prepared for different circumstances and different purposes to conclude that the project would create up to 600

MMcf/d of new capacity. El Paso claims that the capacity of the Line 2000 is limited to 230 MMcf/d primarily because of the length of Line 2000 (785 miles). The existing Line 2000 is without compression facilities. El Paso proposes to use the Line 2000 as a loop to the low pressure system with only the existing compression presently installed on the South System. Without additional compression facilities, the incremental increase in capacity will remain at 230 MMcf/d.

The Commission has analyzed El Paso's proposal and concludes that El Paso has properly designed its facilities to accommodate up to 230 MMcf/d of new incremental capacity on its South System to the Ehrenberg delivery point. Our analysis shows that, although Line 2000 is being used as a loop of its low pressure system, it does not connect to all 15 compressor stations between the Pecos River and Wenden compressor stations. In addition, the proposed use of the Line 2000 has not been designed to address the existing capacity constraints on El Paso's South System. The effective looping that the Line 2000 will provide will only mitigate the South System constraints to the extent that El Paso will be able to compress and transport the additional 230 MMcf/d from the Permian Basin to Ehrenberg. Because of this lack of integration with all of the compressor stations on El Paso's low pressure system and the existing capacity constraints, our analysis shows that the capacity of the Line 2000 pipeline is limited to 230 MMcf/d. Without either additional interconnects with the low pressure system at existing compressor stations or additional compression on Line 2000, the capacity will not exceed the proposed increase of 230 MMcf/d while operating under design conditions.

As part of the analysis, the Commission also examined the impact that the proposed project would have on El Paso's North System. Our analysis shows that the project will not increase El Paso's ability to transport volumes of natural gas from the San Juan Basin to markets on the western portion of El Paso's system. It shows that the instant proposal will allow El Paso to transport an additional 230 MMcf/d to the Wenden Compressor Station on the South System. Depending upon the shippers' requests, El Paso could move volumes of natural gas either north or south on the Havasu Crossover for deliveries to either the Topock or Ehrenberg delivery points. This project will not increase the current capacity of the Havasu Crossover to move volumes of natural gas to either the North System or the South System.

We agree with El Paso's response that Indicated Shippers have misunderstood the impact that the Line 2000 will have on the capacity of El Paso's South System. El Paso's flow diagrams clearly show that, for both winter and summer conditions when El Paso's system is operating under a coincidental peak flow basis, 26 MMcf/d and 90 MMcf/d, respectively, is flowing north on the Havasu Crossover. This does not mean that the Havasu Crossover is only capable of moving volumes of natural gas from the South System to the North System. The Havasu Crossover has the capability of moving about 745 MMcf/d in a southerly direction or 300 MMcf/d in a northerly direction. In each case, it is the shippers who dictate where the gas volumes should be delivered based upon daily nominations. In the instant proposal, El Paso's flow diagrams support its assertion that its system is capable of providing up to 230 MMcf/d of incremental capacity in addition to the maximum demand

that could occur on its system, a system-wide coincidental peak. Regardless of where the volumes of natural gas are delivered, the instant proposal will increase El Paso's ability to move additional volumes of natural gas to markets on the western portion of El Paso's system.

The 600 MMcf/d of incremental capacity that Indicated Shippers believe will result from the project is incorrect. We agree with El Paso that the capacity of the Line 2000 is limited to about 230 MMcf/d under the current designs of the instant proposal. As discussed above, El Paso would need additional compression to increase the capacity of the Line 2000 because of the limited interconnects with low pressure system and existing system constraints. From their comments, it appears that Indicated Shippers have tried to analyze El Paso's system by using different flow diagrams from older applications that reflected entirely different flow conditions. Based upon the flow diagrams provided by El Paso in the instant application, if El Paso were to maintain deliveries of 2.23 Bcf/d at Topock and 1.21 Bcf/d at Ehrenberg, we confirm that the proposed facilities will only increase El Paso's capacity to Ehrenberg by 230 MMcf/d, for a total of 1.44 Bcf/d.

C. Environmental Review

On October 12, 2000, we issued a Notice of Intent to Prepare an Environmental Assessment for the proposed Line No. 2000 Project and Request for Comments on Environmental Issues (NOI). We received responses to the NOI from two landowners, the Hopi Tribe, and the State of Arizona Game and Fish Department, and our staff addressed all substantive comments in the environmental assessment (EA).

Our staff prepared an EA for El Paso's proposal. The EA addresses water resources, cultural resources, vegetation and wildlife, threatened and endangered species, pipeline safety, air and noise quality, geology, soils, and land use.

Based on the discussion in the EA, we conclude that if constructed and operated in accordance with El Paso's applications and supplements dated September 22 and October 18, 2000, February 28, March 27, and March 28, 2001, approval of this proposal would not constitute a major Federal action significantly affecting the quality of the human environment.

Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be consistent with the conditions of this certificate. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state and local laws, may prohibit or unreasonably delay the

construction or operation of facilities approved by this Commission.¹⁶ El Paso shall notify the Commission's environmental staff by telephone or facsimile of any environmental noncompliance identified by other Federal, state, or local agencies on the same day that such agency notifies El Paso. El Paso shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

At a hearing held on May 7, 2001, the Commission, on its own motion, received and made a part of the record all evidence, including the application and exhibits thereto, submitted in this proceeding, and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity under section 7(c) of the Natural Gas Act is issued to El Paso Natural Gas Company to acquire, construct, and operate the Line No. 2000 Project, and related facilities, as discussed above and described more fully in the application, as amended, subject to the environmental conditions contained in the attached appendix.

(B) The certificate issued in Ordering Paragraph (A) above is conditioned upon El Paso's compliance with all applicable Commission regulations, including in particular, paragraphs (a), (c), (e), and (f) of section 157.20 of the Commission's regulations.

(C) Construction of the facilities authorized herein shall be completed and made available for service within one year from the date of this order in accordance with section 157.20(b) of the Commission's regulations.

(D) El Paso shall notify the Commission's environmental staff by telephone and/or facsimile of any environmental noncompliance identified by other Federal, state, or local agencies on the same day that such agency notifies El Paso. El Paso shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(E) All requests for a hearing are denied.

(F) Sempra Companies' and Indicated Shippers' requests for a technical conference, and SoCalGas' request for a conference on California expansion issues, are denied.

¹⁶See, e.g., *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293 (1988); *National Fuel Gas Supply v. Public Service Commission*, 894 F.2d 571 (2d Cir. 1990); and *Iroquois Gas Transmission System, L.P., et al.*, 52 FERC ¶ 61,091 (1990) and 59 FERC ¶ 61,094 (1992).

(G) The motions to intervene out-of-time filed by Pacific Gas and Electric Company, Reliant Energy Services, Inc., Southern California Generation Coalition, and Transwestern Pipeline Company are granted.

By the Commission. Commissioner Massey concurred with a separate statement attached.

(S E A L) Commissioner Breathitt concurred with a separate statement attached.

David P. Boergers,
Secretary.

Appendix A

List of Intervenors

Docket No. CP00-422-000

Aera Energy, LLC.

Amoco Energy Trading Corporation and Amoco Production Company (joint motion)

Arizona Corporation Commission

Arizona Electric Power Cooperative, Inc.

Asarco, Inc. and BHP Copper, Inc. (joint motion)

Burlington Resources Oil & Gas Company

California Public Utilities Commission

Citizens Utilities Company

Conoco, Inc.
Duke Energy Trading and Marketing, L.L.C.
Dynegy Marketing and Trade
El Paso Electric Company
El Paso Municipal Customer Group¹⁷
Marathon Oil Company
MGI Supply Ltd.
Pacific Gas and Electric Company (out-of-time)
PG&E National Energy Group Companies¹⁸
Phelps Dodge Corporation
Phillips Petroleum Company and Phillips Gas Marketing Company (joint motion)
PNM Gas Services
Questar Southern Trails Pipeline Company
Salt River Project Agricultural Improvement and Power District and Arizona Public Service
Company (joint motion)

Docket No. CP00-422-000, List of Intervenor, continued

Sempra Energy¹⁹
Southern California Generation Coalition (out-of-time)²⁰
Southern Union Gas Company
Southwest Gas Corporation
Texaco, Inc. and Texaco Natural Gas, Inc. (joint motion)
TransColorado Gas Transmission Company

¹⁷El Paso Municipal Customer Group includes the Cities of Benson, Mesa, Safford, and Willcox, Arizona; the Cities of Deming, Las Cruces, and Socorro, New Mexico; the Town of Ignacio, Colorado; the Navajo Tribal Utility Authority; Graham County Utilities, Inc.; Duncan Rural Service Corporation; and Black Mountain Gas Company.

¹⁸PG&E National Energy Group Companies includes PG&E Generating Company, PG&E Energy Trading - Gas Corporation, and PG&E Gas Transmission Corporation.

¹⁹Sempra Energy intervened on behalf of itself, Southern California Gas Company, and San Diego Gas and Electric Company.

²⁰Southern California Generation Coalition includes the Imperial Irrigation District; Reliant Energy Power Generation, Inc.; Los Angeles Department of Water and Power; the Cities of Burbank, Glendale, and Pasadena, California (collectively, the Southern California Utility Power Pool); and Williams Energy Services.

Transwestern Pipeline Company (out-of-time)
Vastar Resources, Inc.

Docket No. CP00-422-001

Arizona Public Service Company and Pinnacle West Energy Corporation (joint motion)
Cook Inlet Energy Supply, L.L.C.
Enron North America Corp.
Exxon Gas Marketing Company
Mirant Americas Energy Marketing, LP
Oxy USA, Inc.
Panda Gila River, L.P.
Phelps Dodge Corporation and Apache Nitrogen Products, Inc.
Reliant Energy Service, Inc. (out-of-time)
Salt River Project Agricultural Improvement and Power District
Southern California Gas Company
Southwest Gas Corporation
Williams Energy Marketing & Trading Company

Appendix B

Environmental Conditions for El Paso's Line 2000 Project

1. El Paso shall follow the construction procedures and mitigation measures described in its applications and supplements (including responses to staff data requests) and as identified in the environmental assessment (EA), unless modified by this Order. El Paso must:
 - a. request any modification to these procedures, measures, or conditions in a filing with the Secretary of the Commission (Secretary);
 - b. justify each modification relative to site-specific conditions;
 - c. explain how that modification provides an equal or greater level of environmental protection than the original measure; and
 - d. receive approval in writing from the Director of the Office of Energy Projects (OEP) **before using that modification.**
2. The Director of OEP has delegated authority to take whatever steps are necessary to ensure the protection of all environmental resources during construction and operation of the project. This authority shall allow:

- a. the modification of conditions of this Order; and
 - b. the design and implementation of any additional measures deemed necessary (including stop work authority) to assure continued compliance with the intent of the environmental conditions as well as the avoidance or mitigation of adverse environmental impact resulting from project construction and operation.
3. **Prior to any construction**, El Paso shall file an affirmative statement with the Secretary, certified by a senior company official, that all company personnel, environmental inspectors, and contractor personnel will be informed of the environmental inspector's authority and have been or will be trained on the implementation of the environmental mitigation measures appropriate to their jobs **before** becoming involved with construction and restoration activities.
4. The authorized facility locations shall be as shown in the EA, as supplemented by filed alignment sheets. **As soon as they are available, and before the start of construction**, El Paso shall file with the Secretary any revised detailed survey alignment maps/sheets at a scale not smaller than 1:6,000 with station positions for all facilities approved by this Order. All requests for modifications of environmental conditions of this Order or site-specific clearances must be written and must reference locations designated on these alignment map/sheets.

El Paso's exercise of eminent domain authority granted under Natural Gas Act (NGA) section 7(h) in any condemnation proceedings related to this Order must be consistent with these authorized facilities and locations. El Paso's right of eminent domain granted under NGA section 7(h) does not authorize it to increase the size of its natural gas pipeline to accommodate future needs or to acquire a right-of-way for a pipeline to transport a commodity other than natural gas.
5. El Paso shall file with the Secretary detailed alignment maps/sheets and aerial photographs at a scale not smaller than 1:6,000 identifying all route realignments or facility relocations, and staging areas, pipe storage yards, new access roads, and other areas that would be used or disturbed and have not been previously identified in filings with the Secretary. Approval for each of these areas must be explicitly requested in writing. For each area, the request must include a description of the existing land use/cover type, and documentation of landowner approval, whether any cultural resources or federally listed threatened or endangered species would be affected, and whether any other environmentally sensitive areas are within or abutting the area. All areas shall be clearly identified on the maps/sheets/aerial photographs. Each area must be approved in writing by the Director of OEP **before construction** in or near that area.

This requirement does not apply to minor field realignments per landowner needs and requirements which do not affect other landowners or sensitive environmental areas such as wetlands.

Examples of alterations requiring approval include all route realignments and facility location changes resulting from:

- a. implementation of cultural resources mitigation measures;
- b. implementation of endangered, threatened, or special concern species mitigation measures;
- c. recommendations by state regulatory authorities; and
- d. agreements with individual landowners that affect other landowners or could affect sensitive environmental areas.

6. **Within 60 days of the acceptance of this certificate and before construction** begins, El Paso shall file an initial Implementation Plan with the Secretary for review and written approval by the Director of OEP describing how El Paso will implement the mitigation measures required by this Order. El Paso must file revisions to the plan as schedules change. The plan shall identify:

- a. how El Paso will incorporate these requirements into the contract bid documents, construction contracts (especially penalty clauses and specifications), and construction drawings so that the mitigation required at each site is clear to onsite construction and inspection personnel;
- b. the number of environmental inspectors assigned per spread, and how the company will ensure that sufficient personnel are available to implement the environmental mitigation;
- c. company personnel, including environmental inspectors and contractors, who will receive copies of the appropriate material;
- d. what training and instructions El Paso will give to all personnel involved with construction and restoration (initial and refresher training as the project progresses and personnel change);
- e. the company personnel (if known) and specific portion of El Paso's organization having responsibility for compliance;
- f. the procedures (including use of contract penalties) El Paso will follow if noncompliance occurs; and
- g. for each discrete facility, a Gantt or PERT chart (or similar project scheduling diagram), and dates for:
 - i. the completion of all required surveys and reports;
 - ii. the mitigation training of onsite personnel;

- iii. the start of construction; and
 - iv. the start and completion of restoration.
7. El Paso shall file updated status reports prepared by the environmental inspector with the Secretary on a **biweekly** basis **until** all construction-related activities, including restoration and initial permanent seeding, are complete. On request, these status reports will also be provided to other Federal and state agencies with permitting responsibilities. Status reports shall include:
- a. the current construction status of the project, work planned for the following reporting period, and any schedule changes for stream crossings or work in other environmentally sensitive areas;
 - b. a listing of all problems encountered and each instance of noncompliance observed by the environmental inspector(s) during the reporting period (both for the conditions imposed by the Commission and any environmental conditions/permit requirements imposed by other Federal, state, or local agencies);
 - c. corrective actions implemented in response to all instances of noncompliance, and their cost;
 - d. the effectiveness of all corrective actions implemented;
 - e. a description of any landowner/resident complaints which may relate to compliance with the requirements of this Order, and the measures taken to satisfy their concerns; and
 - f. copies of any correspondence received by El Paso from other Federal, state or local permitting agencies concerning instances of noncompliance, and El Paso's response.
8. **Within 30 days of placing the certificated facilities in service**, El Paso shall file an affirmative statement with the Secretary, certified by a senior company official:
- a. that the facilities have been constructed compliance with all applicable conditions, and that continuing activities will be consistent with all applicable conditions; or
 - b. identifying which of the certificate conditions El Paso has complied with or will comply with. This statement shall also identify any areas along the right-of-way where compliance measures were not properly implemented, if not previously identified in filed status reports, and the reason for noncompliance.
9. El Paso shall file a copy of the Environmental Operating Procedures and copies of any permits pertaining to the cleaning process for review and the written approval of the Director of OEP **prior to the beginning of the cleaning process.**

10. El Paso shall file its plan to evaluate the possible hydrocarbon and other contaminant impacts at the oil pump station sites and a list of identified sites with the Secretary **prior** to the start of cleaning the pipeline and construction.
11. El Paso shall consult with the appropriate Federal or state agencies to determine which known or suspected contaminated sites require further investigation and what mitigation may be employed to minimize impact in the event that contaminated areas are crossed.
12. El Paso shall complete consultations with the U.S. Fish and Wildlife Service's (FWS) Tucson and Albuquerque Field Offices regarding potential impacts its project would have on the southwestern willow flycatcher and its critical habitat. El Paso shall conduct any additional surveys recommended by the FWS and file these results with the Secretary before construction, as well as any FWS comments on those surveys, for the review and written approval of the Director of OEP. El Paso shall also include a determination from the FWS whether or not additional consultation is required.

El Paso shall not begin any construction activities within 0.25 mile of either side of: the new valve and blow-off/by-pass at MP 416.1; the removal of a valve and pipe replacement at MPs 563.9; and the removal of a valve and pipe replacement at MP 796.6 until:

- a. the staff receives comments from the FWS regarding the proposed action;
 - b. the staff completes formal consultation with the FWS (if required); and
 - c. El Paso has received written notification from the Director of OEP that construction may begin.
13. El Paso shall re-initiate consultation with the FWS, Albuquerque Field Office regarding potential impacts its project would have on the cactus ferruginous pygmy owl and its critical habitat.

El Paso shall conduct any additional surveys recommended by the FWS and file these results with the Secretary before construction, as well as any FWS comments on those surveys, for the review and written approval of the Director of the OEP. El Paso shall also include a determination from the FWS whether or not additional consultation is required.

El Paso shall not begin construction activities between MPs 513.0 and M519.5 and between MPs 534.0 and 543, until:

- a. the staff receives comments from the FWS regarding the proposed action;
- b. the staff completes formal consultation with the FWS (if required); and

- c. El Paso has received written notification from the Director of OEP that construction may begin.
14. El Paso shall consult with the FWS, Tucson Field Office regarding the need to conduct pre-construction habitat surveys for the Pima pineapple cactus in desert scrub habitat where construction activities would occur in the project area. If surveys are required, El Paso shall conduct the survey using FWS-approved methodology. The survey reports and any FWS correspondence or comments on the surveys shall be filed with the Secretary, before construction, for the review and approval of the Director of OEP. El Paso shall include a determination from the FWS whether or not additional consultation is required.

El Paso shall not begin construction activities in Arizona until:

- a. the staff receives comments from the FWS for the proposed action;
 - b. the staff completes formal consultation with the FWS (if required); and
 - c. El Paso has received written notification from the Director of OEP that construction may begin.
15. El Paso shall defer modification, construction, and use of facilities and staging, storage, and temporary work areas and new or to-be-improved access roads **until**:
- a. El Paso files with the Secretary, the New Mexico State Historic Preservation Office's (SHPO), Bureau of Land Management's (BLM), Arizona State Lands Department's (ASLD), Forest Service's (FS), New Mexico State Land Office's (NMSLO), and the Army's comments on the cultural resource survey reports and supplemental survey reports, and any additional comments from the Texas and Arizona SHPOs;
 - b. El Paso provides to the SHPOs and other appropriate parties, as applicable, the updated supplemental information (as provided to the FERC in El Paso's response no. 40, filed March 28, 2001) regarding newly affected sites, sites no longer affected, and proposed avoidance measures which resulted from modifications to its proposed project, and files the SHPOs', BLM's, ASLD's, FS's, NMSLO's, and the Army's, as applicable, comments on the updated supplemental information;
 - c. El Paso files with the Secretary cultural resource survey reports for the remainder of the project, any revised reports, any testing/evaluation reports, and any required treatment plans, and the SHPOs', BLM's, ASLD's, FS's, NMSLO's, and the Army's comments, as applicable, on all reports and plans; and
 - d. the Director of OEP reviews and approves all reports and plans and notifies El Paso in writing that it may proceed.

All material filed with the Commission containing **location, character, and ownership** information about cultural resources must have the cover and any relevant pages therein clearly labeled in bold lettering: "**CONTAINS PRIVILEGED INFORMATION--DO NOT RELEASE.**"

16. El Paso shall file revised plans for dealing with the unanticipated discovery of historic properties and human remains during construction for Arizona and Texas, and a plan for New Mexico. El Paso should provide the plans to the appropriate parties and file any comments on the plans.

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

El Paso Natural Gas Company

Docket Nos. CP00-422-000 and
CP00-422-001

(Issued May 7, 2001)

MASSEY, Commissioner, concurring:

While I concur in the result in this case, which would provide additional interstate pipeline capacity to serve markets in California, I am writing separately to underscore my growing concern that additional interstate capacity may not provide enough relief to ease California's energy problems. In addition to providing additional interstate pipeline capacity, the Commission needs to take measures to address the high price of natural gas delivered into California markets. The transportation differential into California often exceeds ten dollars, and is often substantially more at various intrastate delivery points. The transportation differential into other large markets such as New York and Chicago is usually less than a dollar, and sometimes no more than a few cents. The high cost of natural gas delivered into California is then used to justify high wholesale electricity bids into the ISO market. An inefficient, high heat rate, generator using a considerable amount of high priced natural gas then sets the market clearing price that all sellers are paid. Thus, the high transportation differentials into California gas markets have a particularly pernicious effect when coupled with a single price auction for electricity.

I urge this agency to take all available action to mitigate these high transportation differentials. We must actively explore any jurisdiction we may legitimately have that affects the so-called gray market. We must take a second look at whether lifting the price cap for secondary market pipeline capacity was in the public interest. We must vigorously investigate any allegations of withholding or market manipulation or affiliate abuse. We must certificate new interstate capacity that is needed for the markets to function efficiently, and, as Commissioner Breathitt has pointed out on more than one occasion, we must work with the state of California to ensure that there is adequate take away capacity in the intrastate market. I am open to any and all ideas, but my attention was riveted on this issue by our recent staff order setting the so-called proxy price for electricity for the month of February. The proxy clearing price was \$430 per Mwh, and roughly \$350 of that amount was the price of natural gas for an inefficient generator. I concluded that electricity prices in California would remain very high if based upon a very high price for natural gas. This issue has not gotten nearly the attention it needs, and I highlight it to urge more forceful Commission action in this area.

William L. Massey
Commissioner

Docket Nos. CP00-422-000
and CP00-422-001

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UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

El Paso Natural Gas Company

Docket No. CP00-422-000 and 001

(Issued May 7, 2001)

BREATHITT, Commissioner, concurring:

I am concurring on this order to voice my continuing concern about the issue of whether there is adequate intrastate capacity in California to take away the additional volumes that may flow from this project and other interstate pipeline expansions to California. In its comments, Southern California Gas Company (SoCalGas) requests that the Commission convene a technical conference in this proceeding to address California pipeline expansion issues. I am pleased that the Commission recently announced that a technical conference on California infrastructure needs will be held on May 24, 2001.

I continue to believe that the California situation warrants a thoughtful and planned approach to interstate pipeline expansion. I raised a similar concern in my partial dissent from a recent Kern River Gas Transmission Company decision. Providing a forum to engage in a coordinated effort with LDCs, public utilities, and state officials to ensure that adequate downstream capacity exists makes a great deal of sense to me. Without adequate takeaway capacity, the additional interstate capacity that we approve may not have the desired effect of bringing additional supplies into the markets where they are needed. Hopefully, the technical conference will assist in targeting additional pipeline capacity to areas where it will positively respond to California's energy needs. The Commission may be doing its part to get additional pipeline capacity to California; however, without adequate takeaway capacity, additional gas supplies may never reach the intended markets.

I also have concerns about: (1) the high level of spot market purchases of natural gas in California instead of longer term contracts; (2) the need to revisit FERC's decision to lift the price cap on secondary market transactions; and (3) the lack of firm capacity rights on some intrastate pipelines in California. I believe that the Commission should take action, within its jurisdiction, to address these issues.

Linda K. Breathitt
Commissioner